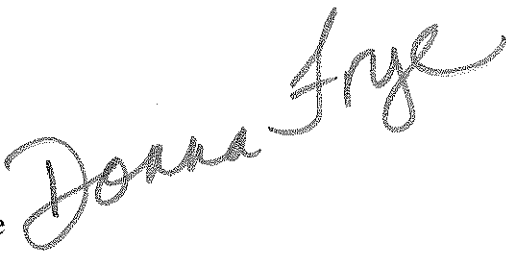




COUNCILMEMBER DONNA FRYE
City of San Diego
Sixth District

MEMORANDUM

DATE: February 28, 2007
TO: Mayor Jerry Sanders
FROM: Councilmember Donna Frye
SUBJECT: Appeal of NPDES Municipal Stormwater Permit

A handwritten signature in cursive script, reading "Donna Frye", is written over the "FROM:" line and extends into the "TO:" line.

I am in receipt of your February 27, 2007 memorandum regarding the Appeal of the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit (Permit). I was very surprised to learn this Monday that the "City" had done so, without any discussion of this issue with the City Council.

You state in your memo that because of a February 23rd filing deadline, and in consultation with the City Attorney's Office, you evaluated the available options and decided to appeal the Permit. I would respectfully suggest that in the future, you consider seeking the consultation of not only the City Attorney, but also the City Council and members of the public.

It is my understanding that the courts have looked more than once at the issue you raised, and each time the results were the same: virtually anything required as part of the Permit is within the purview of the Clean Water Act and does not exceed federal law. In other words, the lawsuits failed.

Perhaps you are unaware, but in the recent past, the City Council has taken the position that the better approach is to work as a partner with the RWQCB to achieve the Permit standards, rather than joining the unsuccessful appeals by the Building Industry Association and others.

Additionally, by joining the appeal petition, the City erodes the collaborative partnership we have established with the environmental community and the Regional Water Quality Control Board (RWQCB).

Finally, I will be requesting that this issue be docketed for a public hearing so that these issues can be discussed and resolved. It is my hope that once you hear all the facts, you will agree that appealing the Permit is not in the best interest of the public.

Cc: City Councilmembers
City Attorney, Michael Aguirre
IBA, Andrea Tevlin
John Robertus and Phil Hammer, RWQCB